

Assembly Bill No. 2205

CHAPTER 253

An act to amend Section 25143.1 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 7, 2012. Filed with
Secretary of State September 7, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2205, V. Manuel Pérez. Hazardous waste: ores and minerals: geothermal waste.

Existing law exempts from certain requirements of the Hazardous Waste Control Law wastes from the extraction, beneficiation, or processing of ores and minerals, as defined, that are not subject to regulation under the federal Resource Conservation and Recovery Act of 1976.

This bill would revise the definition of wastes from the extraction, beneficiation, or processing of ores and minerals to additionally include geothermal waste that are spent brine solutions used to produce geothermal energy meeting specified requirements.

The people of the State of California do enact as follows:

SECTION 1. Section 25143.1 of the Health and Safety Code is amended to read:

25143.1. (a) Geothermal waste resulting from drilling for geothermal resources is exempt from the requirements of this chapter because the disposal of these geothermal wastes is regulated by the California regional water quality control boards.

(b) (1) Wastes from the extraction, beneficiation, and processing of ores and minerals that are not subject to regulation under the federal act are exempt from the requirements of this chapter, except the requirements of Article 9.5 (commencing with Section 25208), as provided in paragraph (2).

(2) The wastes subject to this subdivision are subject to Article 9.5 (commencing with Section 25208) and Chapter 6.8 (commencing with Section 25300) if the wastes would otherwise be classified as hazardous wastes pursuant to Section 25117 and the regulations adopted pursuant to Section 25141.

(3) For purposes of this subdivision, the following definitions shall apply:

(A) "Wastes from the extraction, beneficiation, and processing of ores and minerals" means any of the following:

(i) Soil, waste rock, overburden, and other solid, semisolid, or liquid natural materials that are removed, unearthed, or otherwise displaced as a result of excavating or recovering an ore or a mineral.

(ii) Residuals of ores or minerals after those ores or minerals have been removed, unearthed, or otherwise displaced from their natural sites and physically or chemically treated or otherwise managed in order to separate or concentrate the commercial product present in the ore or mineral, or processed to produce a final marketable product.

(iii) Spent brine solutions that are used to produce geothermal energy and that are transferred, via a closed piping system, to an adjacent facility for reclamation, beneficiation, or processing to recover minerals or other commercial substances, if the spent brine solutions, and any liquid residuals derived from the solutions, satisfy all of the following conditions:

(I) Are managed in accordance with the standards set forth in Section 261.4(a)(17)(i) to (iii), inclusive, of Title 40 of the Code of Federal Regulations.

(II) Are returned after processing, via closed piping, and subsequently managed in accordance with the exemption provided in subdivision (c).

(III) Are not a solid or semisolid hazardous residuals. This subclause applies to materials that include, but are not limited to, filter cakes that are not covered by the exemption provided in subdivision (c).

(B) “Minerals” has the same meaning as defined in Section 2005 of the Public Resources Code.

(c) (1) Except as provided in paragraphs (3) and (4), geothermal waste, excluding filter cake, that is generated from the exploration, development, or production of geothermal energy and that does not result from drilling for geothermal resources, is exempt from the requirements of this chapter, if the geothermal waste meets either of the following requirements:

(A) The geothermal waste is contained within a piping system, nonearthen trench, or descaling area, or within related equipment, that is associated with the geothermal plant where the waste was generated.

(B) The geothermal waste is within the physical boundaries of a lined surface impoundment associated with the geothermal plant where the waste was generated.

(2) If geothermal waste that is exempted pursuant to subparagraph (B) of paragraph (1) is relocated to an elevated location inside a lined surface impoundment for dewatering, that waste shall be removed from the surface impoundment within 30 days of the relocation and while the waste still contains sufficient moisture to prevent wind dispersion, except for residuals that are impractical to remove. The geothermal waste shall be deemed to be generated at the time of removal and shall be properly managed as hazardous waste pursuant to the requirements of this chapter.

(3) A geothermal waste that is exempt pursuant to this subdivision ceases to be exempt from the requirements of this chapter, and shall be deemed to have been generated, when any of the following occur:

(A) It is no longer contained in one or more of the following, as described in paragraph (1):

- (i) A piping system.
- (ii) Nonearthen trench.
- (iii) Descaling area.
- (iv) Related equipment.
- (v) Lined surface impoundment.

(B) It is left in a geothermal piping system, a related piping system, a nonearthen trench, a descaling area, or another piece of related equipment 18 months after the date the geothermal power plant last produced power, unless prior to that date the operator submits a written notification, as described in paragraph (4) to the department, and the department acknowledges the notification in writing.

(C) It is left in a lined surface impoundment and at any time poses an imminent potential threat to areas outside the surface impoundment due to windblown fugitive dusts.

(D) It remains in a unit no longer actively regulated by the regional water quality control board.

(E) It is left in a lined surface impoundment 18 months after the date the surface impoundment has last received waste, unless prior to that date the operator submits a written notification as described in paragraph (4) to the department, and the department acknowledges the notification in writing.

(4) The notification that is required to be submitted by an operator pursuant to subparagraphs (B) and (E) of paragraph (3) shall contain all of the following information:

(A) The name and address of the operator, and the address and physical location of the plant or surface impoundment in which the waste will be stored.

(B) Estimated dates on which the units will resume operation.

(C) A description of how the waste will be stored and managed, demonstrating to the department that the waste will not pose a significant hazard to human health and safety or the environment.

(5) This subdivision does not exempt hazardous waste that is either not directly associated with geothermal energy exploration, development, and production, or that is not exempted from the federal act pursuant to paragraph (5) of subdivision (b) of Section 261.4 of Title 40 of the Code of Federal Regulations, or both. Hazardous waste that is not exempted pursuant to this subdivision includes, but is not limited to, used oil generated from vehicles or the lubrication of machinery.